

## **CABINET – 27 NOVEMBER 2012**

### **FINAL REPORT ON RESPONSE TO STATUTORY NOTICE TO EXPAND BOTLEY SCHOOL, OXFORD**

**Report by Director for Children's Services**

#### **Introduction**

1. At the meeting on 18th September 2012 Cabinet agreed to proceed to publish a Statutory Notice relating to the proposal to expand Botley School from 1.5 form entry to 2 form entry.
2. The Statutory Notice (Annex 1) was published by the Authority in the Oxford Mail on 2 October 2012 and expired following 4 weeks of formal consultation on 30 October 2012. In accordance with legislation the Notice was also posted at the school entrances and sent to the local library and main Oxford library for display. A copy of the full proposal (Annex 2) and the Notice were sent to the governing body and the Secretary of State and additionally made available on the Oxfordshire County Council website. Local childminders, nurseries, primary schools and other childcare providers were contacted by email, attaching the Notice and sending a link to the website. Local councillors were sent a copy of the Notice.
3. The decision-making power in terms of determining the Notice lies with the Cabinet or can be delegated to the Cabinet Member for Education (if there have been no objections). In meeting as 'decision-maker' the Cabinet or Cabinet Member must have regard to government guidance and statutory timescales otherwise a decision can be referred to the independent Schools' Adjudicator for reconsideration. The Cabinet decision must be made within 2 months of the close of the notice period; as a consequence, it is necessary for the Chairman of the Council to determine that the decision cannot be subject to 'call-in' as this would, in most cases, prevent a decision being finalised within the required timescale and mean that the Cabinet's role would be negated by referral to the Schools' Adjudicator.
4. As objections in relation to the proposal have been received the decision is referred to the Cabinet. The proposed implementation date for the proposal is 1 September 2014. If the proposal is approved, the school will admit 60 pupils in September 2013 by local agreement with the county council.

## The Proposal

5. The Education Act 1996 (Section 14) places a statutory duty on local authorities to secure sufficient school places in their area. To allow for fluctuation in demand, in-year movement and effective operation of parental preference, it is judged that 8% spare places are required across an urban area.
6. The proposal is to increase the formal published admission number from 45 to 60 on a permanent basis at Botley School from September 2014 (an admission number of 45 has already been published for 2013). This will eventually increase the school's total capacity from its current 315 places in Years F1- Y6 to a maximum of 420.
7. The school has been allocated places over its admission number for the last few years, which has been crucial in terms of the county council meeting its duty to provide sufficient pupil places. Demand for pupil places across Oxfordshire generally has risen in recent years.
8. The proposal to expand Botley School is related to current and future housing developments planned by the Vale of the White Horse District Council, which are within the school's catchment area. These will generate more pupils for the school. If the proposal is not approved, some of these children may need to go to school further away from their homes and potentially be transported there at the expense of the county council.
9. The latest figures, and forecast for primary pupil numbers in the Cumnor partnership is as follows:

<b>Year</b>	<b>R</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>Total</b>
<b>2011-12</b>	203	218	183	205	180	179	168	1336
<b>2012-13</b>	235	200	215	177	207	190	180	1403
<b>2013-14</b>	237	233	198	211	178	213	192	1463
<b>2014-15</b>	239	238	233	197	215	187	217	1526
<b>2015-16</b>	244	236	235	229	198	220	187	1549
<b>2016-17</b>	242	241	233	230	229	203	220	1597

10. Along with an increase in pupil numbers, the school will require additional classrooms and other accommodation in line with regulations and guidance. The county council is carrying out a feasibility study, which is well underway to investigate how these can best be provided to bring the school up to standard for a modern 2 form entry primary school.

## Representations

11. The formal representation (Statutory Notice) phase was from 2nd October 2012 – 30th October 2012.
12. 9 representations were received in response to the Statutory Notice. 4 were in favour of the proposal in principle, including one from the Headteacher at a partnership primary school and one from Botley School's Senior Leadership Team, although they also wished to raise some concerns.
13. 5 representations were received objecting to the proposal. The concerns raised were:
  - Concern about increased traffic to the site.
  - Concern that the additional children attending the school would not live locally.
  - Concern about sufficient new facilities being provided for the increased number of pupils, and that they should be permanent not temporary.
  - Suggestion that another school in the Cumnor area be expanded instead
  - Concern that no information relating to building design was available.
14. During the initial consultation, there were concerns raised regarding traffic and whether the additional pupils would live locally or not, also about sufficient additional accommodation being provided. These concerns were considered by the Cabinet at its meeting in September 2012. Councillor Janet Godden, speaking as a local Councillor referred to the problem of taxied children and Councillor Melinda Tilley, Cabinet Member for Education, replied that she was investigating and hoped to resolve the problem. Cabinet was of the opinion that these concerns should not be a barrier to proceeding to publish a Notice. See Annex 1 for officer comments in response to the concerns raised.
15. Most schools in the immediate vicinity of Botley School have already admitted additional pupils including West Oxford Primary School, St Swithun's CE Primary School and Appleton CE (VA) Primary School. Cumnor CE School was assessed for expansion, but the site proved unsuitable.
16. The feasibility study looking at how the required additional accommodation might be provided is nearing completion but not yet finalised. For this reason plans have not been available to parents to comment on. However, this Notice is part of the process to consult on the *principle* of whether the school should expand, not the design of future buildings. Building plans can be commented on by the general public through the Planning process in the usual way. In the Cabinet meeting in September 2012 Councillor Godden supported the proposed expansion, commended the school for the way it had coped with the influx of young people so far and urged the provision of permanent buildings rather than temporary ones. Cabinet, in agreeing the recommendation, indicated that their expectation was for the provision of permanent buildings should the expansion go ahead, and that it would expect to be updated if following assessment of all the options a temporary solution was proposed.

17. Following subsequent publication of the Statutory Notice and the close of the formal four week representation stage, objections have been raised. Therefore, the decision on whether to implement the proposal is referred to the Cabinet.

## **Legal background**

18. School expansions are subject to statutory procedures, as established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 (as amended). Local authorities also have a duty to have regard to statutory guidance, in this particular case 'Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form', ("the Guidance"). When reaching a decision, Cabinet or Member must have regard to The Guidance. Cabinet / Member is referred in particular to pages 19 to 40 of The Guidance.
19. In terms of reaching a decision all proposals should be considered on their merits but the following factors should be borne in mind but are not considered to be exhaustive. The Decision Maker should consider the views of all those affected by the proposals. The Cabinet Member, as Decision Maker, must be satisfied that the statutory consultation has been carried out prior to the publication of the notice. Details of the consultation should be included in the proposals. The Decision Maker must be satisfied that the consultation meets statutory requirements. If the requirements have not been met, the Decision Maker may judge the proposals to be invalid and should consider whether they can make a decision on the proposals. Alternatively the Decision Maker may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposals as a whole.
20. **The effect on standards, school improvement and diversity.** The government aims to create a dynamic system shaped by parents that delivers excellence and equality, closing weak schools, encouraging new providers and popular schools to expand. Decision Makers should be satisfied that the proposals will contribute to raising local standards of provision and improved attainment and consider the impact on choice and diversity. They should pay particular attention to the effect on groups that tend to under-perform including children from certain ethnic minorities and deprived backgrounds. The decision-maker should consider how the proposals will help deliver the 'Every Child Matters' principles.
21. **School characteristics.** The Decision Maker should consider whether there are any sex, race or disability discrimination issues that arise and whether there is supporting evidence to support the extension and take into account the existence of capacity elsewhere. The Decision Maker needs to consider the accessibility of the provision for disadvantaged groups as the provision should not unduly extend journey times or cost.
22. **Need for places.** The Decision Maker should consider whether there is a need for the expansion and should consider the evidence presented for the

expansion. There is a strong presumption that proposals to expand popular and successful schools should be approved. If surplus capacity exists in neighbouring schools the Decision Maker should ask how it is planned to tackle any consequences for other schools.

23. **Funding and land.** The Decision Maker should be satisfied that any land, premises and capital required to implement the proposals will be available.

### **Financial and Staff Implications**

24. The financial implications of this report are linked to the capital works that will be carried out should the proposal be approved. As part of the Service & Resource Planning process the county council will consider these capital resource implications in the context of agreeing the Basic Need Programme 2013/14 to 2016/17. In accordance with the Capital Governance requirements the detailed design solution will be subject a Full Business Case / Project Approval in due course.
25. Developer contributions towards this expansion will be sought from the future new housing development and any other relevant future developments in the area.
26. There will be on-costs to the school for additional staff and for increased maintenance requirements. The day to day revenue costs for repair and maintenance and staffing costs must be met through the schools delegated budget as part of the Council's Fair Funding arrangements, which will be updated to meet revised government requirements from April 2013. Additional pupils will be reflected in an adjustment in the school's funding formula which applies numbers of pupils on roll and their characteristics.
27. Resources for School Budget Shares are provided by government through the Dedicated Schools Grant, which will increase proportionately to increases in overall pupil numbers in Oxfordshire.

### **Equality and Inclusion Implications**

28. The Equality Impact Assessment of Oxfordshire's Pupil Place Plan (June 2011) identified that increasing school places at the heart of their communities has a positive impact on equalities through promoting social inclusion and minimising barriers to accessing education.

### **Decision**

29. In considering the proposals for a school expansion, the Decision Maker can decide to:
- Reject the proposals;

- Approve the proposals;
- Approve the proposals with a modification (e.g. the implementation date); or
- Approve the proposals subject to them meeting a specific condition (see the Guidance).

## **RECOMMENDATION**

- 30. The Cabinet is RECOMMENDED to approve the permanent expansion of Botley School with effect from 1 September 2014.**

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Director for Children's Services

Background document: Cabinet report 18 September 2012

Annexes: Annex 1: Statutory notice  
Annex 2: Full statutory proposal

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